

REMARKS

This Application has been carefully reviewed in light of the Advisory Action mailed November 7, 2005. In order to advance prosecution of this Application, Claims 1, 5, 9, 13, 17, 21, 25, 29, 33, and 37 have been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1-40 stand rejected under 35 U.S.C. §112, first paragraph, as containing subject matter not described in the specification. Claims 1, 5, 9, 13, 17, 21, 25, 29, 33, and 37 have been amended to be consistent with Applicant's specification at page 13, line 16, to page 17, line 20. Therefore, Applicant respectfully submits that Claims 1-40 are in accordance with 35 U.S.C. §112, first paragraph.

Claims 1-40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kondo, et al. in view of Obuchi, et al. Independent Claims 1, 9, 17, 25, and 33 recite in general the ability to perform either of the steps of selecting one of the first and third signal portions using the first and signal characteristics and combining the first and third signal portions, wherein combining includes adding or averaging the first and third signal portions. By contrast, the Examiner readily admits that the Kondo, et al. patent fails to disclose an ability to perform adding or averaging first and third signal portions as required by the claimed invention. To overcome the deficiencies of the Kondo, et al patent, the Examiner proposes to combine the Obuchi, et al. patent with the Kondo, et al. patent. The portions of the Obuchi, et al. patent cited by the Examiner are directed to an error rate measurement device that measures an error between bits received from base stations and generates a mean error rate between base stations. The error rates determined in the

Obuchi, et al. patent are used in selecting a convolution encoded signal output from a plurality of convolution encoders. Thus, the Obuchi, et al. patent fails to disclose adding or averaging of portions of first and second wireless signals received from first and second base transceiver stations in addition to selecting portions of the first and second wireless signals as provided in the claimed invention. The merging of convolution encoded signals into one signal is performed based on a selection process using the error rates and is not performed by adding or averaging signals as required by the claimed invention. Thus, the Examiner's proposed Kondo, et al. - Obuchi, et al. combination does not have a capability to add or average signal portions from different base stations let alone perform either of the steps of selecting between signal portions or combining signal portions as provided by the claimed invention. Therefore, Applicant respectfully submits that Claims 1-40 are patentably distinct from the proposed Kondo, et al. - Obuchi, et al. combination.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments associated with this Application to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicants

A handwritten signature in black ink, appearing to read 'Charles S. Fish', is written over the printed name.

Charles S. Fish

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